

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
-v-	)	No. 14 CR 103
	)	Judge Kendall
GREGORY WEBB,	)	
	)	
Defendant.	)	

**DEFENDANT'S PRELIMINARY  
NON-AGREED JURY INSTRUCTIONS**

NOW COMES the Defendant, GREGORY WEBB, by and through his attorneys,  
MONICO & SPEVACK, and attaches Defendant's Preliminary Proposed Jury  
Instructions.

These instructions may be contested by the Government.

Defendant states that at this time he does not know whether he will ask that  
these instructions be given at all, or in whole, in part, or with revision, but at this time  
he anticipates instructions of this order will be requested. Defendant may also request  
other instructions depending upon additional instructions the Government requests  
and the Court agrees to give, and depending upon the evidence introduced in the trial  
of the case.

Respectfully submitted,  
GREGORY WEBB

By: /s/ Barry A. Spevack  
One of his attorneys

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Each count of the indictment alleges that the defendant committed certain specific acts. The government is not required to prove that each and every specific alleged act was committed by the defendant. However, the government is required to prove that defendant committed at least one of the specific acts which are alleged in that count. To find that the government has proven this you must agree unanimously on which particular act that the defendant committed, as well as all of the other elements of the crime charged.

For example, if some but not all of you find that the government has proved beyond a reasonable doubt that the defendant falsely represented that the City of Chicago had agreed to install InfrAegis IA medium throughout the city of Chicago and that the agreement would result in profits of over \$80 million per year, and the rest of you were to find that the government proved beyond a reasonable doubt that the defendant falsely represented that InfrAegis had a contract with the Washington Metropolitan Area Transit Authority to install InfrAgeis IA medium throughout the metro train system in Washington, DC, then there would be no unanimous agreement on which act has been proved. If there is no unanimous agreement on which act has been proved, you must find the defendant not guilty.

A person who acts, or causes another person to act, on a belief or an opinion honestly held does not act knowingly or willfully in violation of the law, even though that belief may be mistaken, inaccurate, erroneous, or wrong. An honest mistake in judgement or an honest error in management, or even the mismanagement of a business, does not rise to the level of criminal conduct.

See *United States v. Morris*, 80 F.3d 1151, 1165 (7th Cir. 1996)      Defendant's  
Sand, Siffert, Loughlilin, & Reiss, *Modern Federal Jury*      Preliminary  
*Instructions*, Criminal, Instr. 8-1: *Richards v.*      Proposed Instruction 2  
*Combined Ins. Co. of America*, 55 F.3d 247, 253 (7th Cir. 1995)

In deciding whether the government has proved beyond a reasonable doubt that a defendant acted willfully, or whether instead he acted in good faith, you must make your decision based upon what the defendant believed at the time of the conduct at issue, and not upon what you or someone else feels the defendant should have believed, whether at the time, or in hindsight.

The crime is charged in this case requires proof of specific intent before the defendant can be convicted. Specific intent, as the term implies means more than the general intent to commit the act. To establish specific intent the government must prove that the defendant knowingly did an act which the law forbids (or knowingly failed to do an act which the law requires), purposely intending to violate the law. Such intent may be determined from all the facts and circumstances surrounding the case.

See W. LaBuy, Jury Instructions in Federal Criminal Cases s 4.04, reprinted in 33 F.R.D. 550. See also I E. Devitt & C. Blackmar, Federal Jury Practice and Instructions s 14.03 (3d ed. 1977).

Defendant's Preliminary  
Proposed Instruction 4

A person acts knowingly if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident.

You may not find that the defendant acted knowingly if he was merely mistaken or careless in not discovering the truth, or if he failed to make an effort to discover the truth.

If the defendant acted in good faith, then he lacked the intent to defraud or willfulness required to prove the offenses of mail and wire fraud. The defendant acted in good faith if, at the time, he honestly believed the validity of what the government has charged as being false.

The defendant does not have to prove his good faith. Rather, the government must prove beyond a reasonable doubt that the defendant acted willfully or with intent to defraud.



Certain summaries and charts were admitted into evidence. The accuracy of some of the summaries and charts has been challenged. It is up to you to decide how much weight to give to the summaries.

The Government has charged Defendant with acts of mail and wire fraud committed through false or fraudulent pretenses, representations or promises. The Government is not required to prove each of those false or fraudulent pretenses, representations or promises.

However, to find the Defendant guilty each of you must agree with each other juror that the same false or fraudulent pretense, representation, or promise was made. Unless each of you agree that the Government has proven the same false or fraudulent pretense, representation, or promise beyond a reasonable doubt, you must find the defendant not guilty.

